IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Amendment Application No. 9572 of 2003

In

Civil Writ Petition No. 388 (M/B) 2003

Rafique Ahmad Siddiqui,
S/o Shri Mohammad Siddiqui,
R/o Village Kaonli, Sattowali Ghati,
Tehsil and District Dehradun & others. ……. Petitioners

Versus

State of Uttaranchal,
Through Secretary,
In the department of Waqf,
Dehradun & others ……. Respondents

Mr. T.A. Khan/Mr. Ishtiaq Ahmed Khan , Advocates for the petitioners.
Mr. U.P.S. Negi, Addl. Advocate General for the State.
Mr. U.K. Uniyal, Advocate for private respondent No. 10.
Mr. L.P. Naithani, Sr. Advocate i/b J.P. Joshi, Advocates for the intervener.

Coram: Hon'ble S.H. Kapadia, C.J.,
Hon'ble M.M. Ghildiyal, J.

Date: 14.11.2003

PC:-

Heard learned Advocates on both sides.

We have gone through the entire record. It is voluminous. We are satisfied that serious disputed facts are involved on title in the petition, hence writ petition is not maintainable.

The title dispute is age old. There are suits and counter suits pending in the Civil Court.

Mr. T.A. Khan, leaned Advocate for the petitioners submits that the petitioners will raise the dispute u/s 6 of the Waqf Act, 1995. He seeks to move the Tribunal under the said Act, 1995. According to the respondent No. 10/ intervener, the dispute in this case can only be decided by the Civil Court and not by the Tribunal under the Waqf Act, 1995. We are not required to go into this controversy. We have rejected the writ petition as not maintainable because disputed facts on title are involved. Therefore, the petitioners have to resort to alternate remedy in law. However, if the petitioners move the Tribunal under

the Waqf Act, 1995 their suit under that Act will not be dismissed on the ground of limitation.

The present case involves a sensitive issue. In the facts and circumstances of the case, we are directing both sides to maintain status quo as of today up to 31st December 2003 in order to enable the petitioners to move the appropriate Court/ Tribunal. Petitioners will also apply for interim relief to the appropriate Court/ Tribunal on or before 31st December 2003 on which date the order of status quo passed by this Court today will come to an end.

In the circumstances, no order is passed on amendment application No. 9572 of 2003.

Accordingly, writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J.) **(S.H. Kapadia, C.J.)**

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